

Statement of the Conference of the Bangladesh Forum Germany on

Human Rights and Civil Society in Bangladesh

26th and 27th January 2006, Berlin

Introduction:

The following recommendations are the outcome of the conference on “Human Rights and Civil Society in Bangladesh” held by the Bangladesh Forum Germany on 26th and 27th January 2006 in Berlin. Independent civil society actors from Bangladesh, Belgium, France, Germany, the Netherlands and the United Kingdom, comprising of academics, lawyers, journalists and social activists representing a range of civil society organisations participated in the conference.

A brief overview on the current situation regarding issues of concern addressed is given below followed by recommendations for a dialogue between the Government of Bangladesh and the EU, European governments as well as international organisations cooperating with Bangladesh.

Five issues have been highlighted in the conference:

Issue 1: Forthcoming Parliamentary Elections

Issue 2: Freedom of Association of Non-Governmental Organizations (NGOs)

Issue 3: Freedom of the Press

Issue 4: Women’s Rights

Issue 5: Rights of Indigenous Peoples and Religious Minorities

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Issue 1: Forthcoming Parliamentary Elections

(i) Positive Developments

Since its independence, Bangladesh has made tremendous progress towards establishing itself as a democracy. In an outstanding effort the two major political parties joined together in 1990 to reclaim democracy from autocratic rule. The parties have passed power along to their political rivals with a minimum of violence following closely contested free and fair elections in 1991, 1996 and 2001. Thus, according to international standards, Bangladesh can be considered as a consolidated democracy after peaceful changes of governments. There have been efforts to increase the number of women in the National Parliament, currently reserving 45 seats for women (although concerns remain regarding the process of indirect election to such seats), and providing for direct elections to reserved seats for women in local government bodies. The Government of Bangladesh has expressed its intention to implement free and fair elections in 2007. Furthermore, the participation of the opposition in parliament since February 2006 can be considered as a start of political dialogue on reforms between the government and the opposition. The apparent increased participation of common people in policy developments since the establishment of democracy is a further indicator of the establishment of democratic principles.

(ii) Current Concerns:

The Election Commission, which is an independent constitutional body in the exercise of its functions and subject only to the Constitution and any other law, has started to compile fresh voter lists for the next elections. This has been done despite a High Court directive to prepare the list, taking into consideration the existing voter list. There is considerable concern that the preparation of a fresh voters' list would exclude certain communities. There are also widespread concerns regarding the independence of the Election Commission.

(iii) Recommendations

1. It would be appreciated if the Government of Bangladesh could be supported to ensure full independence of the Election Commission (consultative appointments, budget, etc.) and to ensure that the Caretaker Government is able to work without any influence by any party.
2. The EU Commission is requested to lead a pre-election monitoring study as soon as possible for examination of the concerns highlighted regarding particular constituencies. The civil society should be involved in developing the Terms of Reference and the conduct of the mission.
3. The international community is requested to contribute to an increment and expansion of the scope of international election monitoring. This should include
 - a. Monitoring of the process of preparation for elections including voters' registration,
 - b. Increment of the number of international observers,
 - c. Documentation of malpractices during the elections.
 - d. Launch an additional mission by the European Parliament.
 - e. Support of the EU for domestic civil society groups working on election monitoring independent of other external support providing organisations
 - f. Support of skill development training for the journalists and election monitors.
 - g. Support of investigation and external expertise on key election related corruption issues including support for strict monitoring of electoral spending,
 - h. Monitoring of the post-election period.

Issue 2: Freedom of Association of Non-Governmental Organizations (NGOs)

(i) Positive Developments

It is widely acknowledged that Bangladesh has made remarkable progress towards reaching the Millennium Development Goals (MDGs) by 2015, with indicators showing Bangladesh “on track” to reach 100% enrolment rates and gender equality in primary and secondary education and in significantly reducing child and maternal mortality. Economic growth as a necessary framework for development has increased. Since independence, NGOs have significantly contributed to the development of the disadvantaged and the empowerment of vulnerable communities and of women, either by implementing own programmes or by policy advocacy. This has been widely recognised by the Government of Bangladesh. The NGO community has appreciated the move by the Government to withdraw the Amendment Bill to the existing Foreign Donations Regulations Ordinance 1978. In order to improve consultative coordination between government organisations (GOs) and NGOs, the GO and NGO Coordination Council (GNCC) was established. This government forum ensured participation and representation of GOs, NGOs and CSOs in consultative coordination processes.

(ii) Current Concerns

In 2001 the NGO Affairs Bureau, the Bureau of Anti-Corruption, the National Security Intelligence, and the Taxation Department started to investigate five NGOs as well as the apex body of NGOs, the Association of Development Agencies of Bangladesh (ADAB), for alleged financial irregularities, lack of accountability and transparency and political partisanship. These “blacklisted” NGOs have not been able for over four years to obtain government approval for release of donor funds already committed to them and have been thus hampered in effective implementation of their development programmes, with approximately 2.5 millions beneficiaries living under the poverty line being affected.

Concerns regarding the freedom of association of NGOs were further heightened by efforts by the Government to amend the existing Foreign Donations Regulations Ordinance 1978 to restrict NGOs from engaging in “political activities” giving rise to fear that this restriction would be used to restrain development as activities relating to women’s empowerment and the promotion of human rights if these are defined as “political”. Currently the Bill has been withdrawn.

(iii) Recommendations

1. Funds to NGOs which have been blocked for the last four years should be released immediately and non-discriminatory and non-arbitrary applications of the existing law should be ensured.
2. Harassment of NGO leaders and staff should be stopped and politically motivated cases filed against them should be withdrawn.
3. Compliance with the High Court’s judgment on the release of ADAB funds should be ensured.
4. Participation of NGOs from diverse networks in the formulation of policies and decisions related to NGOs should be enabled.
5. The Government and NGO Coordination Council (GNCC) should be re-activated and effective consultation processes between Government organisations and NGOs should be established.
6. An independent NGO Commission should be established.
7. Transparency and accountability in the allocation of projects to NGOs funded by bi- and multilateral funding agencies should be ensured in order to avoid corruption.

Issue 3: Freedom of the Press

(i) Positive Developments

Despite many obstacles, there has been considerable progress in improving the context for the operation of the mass media in Bangladesh. The significant role of print journalists in hastening the end of military rule, led to important gains in the amendment of laws restricting freedom of the press (including provisions of the Special Powers Act 1974 (SPA)). The establishment of private television channels, together with the increasing number of newspapers, journals, and satellite television channels testifies to the pluralistic character of the Bangladeshi media. The alternative film movement, led by young progressive and innovative film-makers, plays a significant role. Despite political polarisation among journalists, incidents of individual attacks and killings of journalists have catalysed unity and collective condemnation by the community as a whole.

(ii) Current Concerns

Despite the operation of a range of independent and critical newspapers and journals independent observers have identified Bangladesh as one of the most dangerous countries in the world for journalists. Repression against journalists has increased notably. Journalists face death threats and, in the worst instances, killing at the hands of unknown assailants after they have expressed their opinions, with impunity being the norm for perpetrators.

A transparent and accountable process for the issuing of TV licenses has not always been ensured. E. g. Bangladesh's first private television channel, Ekushey TV (ETV), known for its independent perspective on political and social issues, went on air in 1999. In 2002 a writ petition was filed challenging the validity of the licensing agreement ending in a decision by the High Court in 2002 declaring ETV's licence as illegal. Following a prolonged legal procedure, the Ministry of Information in 2005 was directed to issue a fresh licence for ETV, but as yet, no frequency to allow broadcasting by ETV has yet to be issued

(iii) Recommendations

1. Violence and impunity
 - a. Prompt, effective and impartial investigation of incidents of threats and violent attacks on journalists, and prosecution and punishment of those responsible should be ensured.
 - b. Information should be made available to the public regarding the progress of such investigations and trials and their outcome.
 - c. Special attention should be given to the violations of freedom of press especially on the local level
 - d. Support the efforts for full implementation of the EU guidelines for human rights defenders
2. Law making
 - a. Following public consultations steps should be taken for the enactment of the Right to Information Bill, drafted by the Bangladesh Law Commission.
 - b. Provisions of laws such as the Post Office Act or the Official Secrets Act, which operate as restrictions on freedom of the press, should be amended or repealed
3. Support the efforts to establish an independent press council in conformity with constitutional guarantees of freedom of expression.
4. A transparent and accountable process for the issuing of TV licenses should be ensured.
5. Policy makers at the highest levels to promote a culture of tolerance of free expression and to refrain from statements or actions which contribute to the harassment of journalists.

Issue 4: Women's Rights

(i) Positive Developments

There has been significant progress towards securing women's rights in recent years. The "National Policy for Advancement of Women 1997" was formulated following the United Nation's Beijing Women's Conference, and in the light of the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). In terms of standard setting laws have been adopted, e.g. laws on acid attacks. There is eminent improvement in major socio-economic indicators such as an increase in the school enrolment of girls', increased participation of women in the labour market (in particular the garments industry) as well as greater political participation in local government.

(ii) Current Concerns

However, serious concerns have been raised regarding continuing failures in effective enforcement of the law, and with regard to reforming laws and policies to ensure gender equality. A particular concern has arisen with regard to certain retrogressive steps regarding the national policy framework on women's rights. An amendment made in 2004, without any consultation with relevant civil society organisations, to the "National Policy for Advancement of Women 1997" includes the deletion of provisions regarding women's equal opportunity or equal share in property or assets, the removal of women's rights to inheritance, property and assets and land and the dropping of provisions regarding the appointment of women to high posts in the Planning Commission and the judiciary. The changes to the policy contradict the goals set in the Poverty Reduction Strategy Paper (PRSP), which aim to support women's empowerment and the pro-active promotion of women's rights.

(iii) Recommendations

1. The National Policy for Women's Advancement, 1997 should be re-affirmed.
2. The Fourteenth Amendment of the Constitution and related legislation providing for indirect election of women to reserved seats in the National Parliament should be repealed, and legislation to provide for women's direct election to such seats should be enacted, in conformity with the consensus demand of national women's rights organizations.
3. Effective implementation of existing laws in relation to suppression of violence against women and children including speedy prosecution should be ensured, in particular the
 - a. Suppression of Violence against Women and Children (Special Provisions) Act 2000,
 - b. the Acid Crime Control Act 2002 and the
 - c. Acid Control Act 2002.
4. New laws following transparent consultations with independent experts and women's and human rights organizations, should be enacted to ensure effective prevention, prosecution and punishment of domestic violence against women. Laws and frame policies and procedures should be enacted to ensure the security of victims and witnesses in cases concerning violence against women.
5. Full ratification of the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) and withdrawal of remaining reservations (to Article 2 and 13) should be ensured. The conformity of national laws and policies with CEDAW provisions should be secured, in particular by
 - a. taking necessary action to eliminate discrimination against women regarding gender inequality in constitution, laws, policies and administrative decisions,
 - b. reviewing personal laws perpetuating gender inequality with regard to women's participation in the economic sector, property rights, inheritance and family laws.

Issue 5: The Rights of Indigenous Peoples and Religious Minorities

(i) Positive Developments

The Government of Bangladesh has increasingly become aware of its obligations to protect minority communities such as the Ahmadiyyas. Due to its initiatives, recent attempts by anti-Ahmadiyya zealots to lay siege to Ahmadiyya headquarters in December 2005 were prevented. Despite the demands the Government has refused to declare Ahmadiyyas as non-Muslims. The High Court has directed the stay of operation of a Government order purporting to ban Ahmadiyya publications.

The conflict in the Chittagong Hill Tracts between indigenous peoples and the Bengalis of the plain lands spanned over three decades until the accord reached in 1997 between the Jana Sanghati Samiti (JSS) and the Government of Bangladesh. This accord negotiated by the Government was a positive step towards settlement of the conflict. A Land Commission was to be established to review and decide on all disputed titles, and a new and comprehensive land ownership survey was to be undertaken. The Government made efforts to increase income-generating opportunities and to strengthen the capacity of local government institutions. There has been increased support from civil society organizations and the press for indigenous peoples' demands for self-determination, constitutional rights and right to local resources. There is increasing understanding within civil society of the value of ethnic, language and cultural diversity. Moreover, the Vested Property Restoration Act was enacted in 2001, repealing the Vested Property Act which had been the vehicle for significant dispossession of land from both indigenous and religious minorities in previous years.

(ii) Current Concerns

Reports of violence and intolerance against religious minorities continue. Although freedom of religion is guaranteed in the Constitution of Bangladesh, it has reportedly been under threat. There is a perception that the administration does not act promptly and effectively to protect potential victims. Since 2003 the group known as the “International Khatme Nabuat Movement” has intensified attacks on the Ahmadiyya community and demanded that the Government declare them as “non-Muslims”, a claim that wholly contradicts constitutional guarantees of freedom of religion. Attacks on Hindus and Christians have also continued sporadically with impunity being the norm for perpetrators.

Despite the existing peace accord of 1997, the human rights situation of the indigenous people in the Chittagong Hill Tracts (CHT), has not improved during the last years. In 2003, indigenous people in the CHT reportedly were attacked and two persons killed; houses and shops were burned down in ten villages in the Mahalchari area of Khagrachari district, with none of those responsible having been brought to justice to date, and the attacks never having been fully and independently investigated. Continued militarization of the CHT contradicts the 1997 peace accord. Illegal arms depots were exposed at number of places in the CHT. Internally displaced people continue to remain unrehabilitated. The resolution of land disputes remains unaddressed, with the Land Commission yet to become operational.

(iii) Recommendations

1. Legal steps should be taken to ensure effective investigation on alleged attacks against Ahmadiyyas, Hindus and Christians and prosecution and punishment of those responsible. This includes steps against the illegal activities of the International Khatme Nabuat Movement.
2. Proper implementation of the Vested Property Restoration Act 2001 should be ensured, and experts and civil society representatives should be consulted regarding further proposed amendments to the same.

3. The civil administration should generally take care of minority's personal physical security and security of property and assets to avoid the destruction of the last vestiges of social capital or cohesion of minorities which finally lead to increasing silent out migration. This especially applies to women of minorities, which suffer under gendered forms of violence such as rape, sexual harassment and eve-teasing.
4. Concerning indigenous peoples in general
 - a. Freedom of association for representative or civil society organisations among the indigenous peoples should be ensured,
 - b. Consultative prerogatives to indigenous peoples' representatives at district and sub-district levels for facilitating development programmes should be provided, preventing land alienation and ensuring restitution of alienated lands.
 - c. Indigenous peoples' involvement in decision-making processes of bi- and multilateral organizations' projects should be increased
 - d. Continued land dispossession should be prevented and the customary land rights of the indigenous peoples should be recognized.
 - e. Ratification of the ILO Convention 169 by the member countries of the European Union and the Government of Bangladesh should be ensured.
 - f. Ensure protection of diverse languages and cultures of the indigenous peoples including education of the indigenous peoples in their respective mother language.
5. Concerning indigenous peoples in the plains
 - a. The demand for a separate ministry for the ethnic communities of the plains should be supported.
 - b. False cases against the Garo people and others who have been opposing the Eco-park in Modhupur should be withdrawn.
6. Concerning indigenous peoples in the Chittagong Hill Tracts
 - a. The Peace Accord of 1997 should be fully implemented including by immediately making the land commission functioning and demilitarizing the region.
 - b. Impartial and independent and effective investigation of all incidents of human rights abuses, and prosecution and punishment of those responsible, should be ensured including with respect to the Mahalchari incident.
 - c. Equal opportunities of education, healthcare and social services for indigenous peoples should be secured. Rehabilitation of internally displaced people and others affected by the conflict should be secured Activation of the Land Disputes Resolution Commission after due amendment to the concerned law on the basis of advice of the CHT Regional Council.
 - d. NGO Bureau and Social Welfare Department registration should be provided to indigenous peoples' NGOs in a non-discriminatory manner and harassment of organizations of indigenous people should be stopped.